

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

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No. 6:19-cv-00532

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**Daniel C. Elliston,**

*Petitioner,*

v.

**Sheriff Botie Hillhouse,**

*Respondent.*

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Before BARKER, *District Judge*

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**ORDER**

Petitioner Daniel C. Elliston brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. 5. The case was referred to United States Magistrate Judge K. Nicole Mitchell. Doc. 2. Judge Mitchell issued a report and recommendation that the petition be dismissed without prejudice for failure to exhaust state remedies and that a certificate of appealability be denied. Doc. 13. Petitioner filed no objections. Therefore, the court need only review the report and recommendation for clear error, abuse of discretion, or legal conclusions contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having reviewed the report and recommendation, the court finds no clear error, abuse of discretion, or legal conclusions contrary to law. Accordingly, the report and recommendation (Doc. 13) is **adopted**. This case is **dismissed without prejudice** for failure to exhaust state remedies. A certificate of appealability is **denied**. Any outstanding motions are **denied as moot**. The clerk of court is **directed** to close this case.

*So ordered by the court on March 31, 2020.*

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J. CAMPBELL BARKER  
United States District Judge